

©Paul-Kenneth: Cromar™

Defendant in Error, Sui juris, the living man, Executor of the Trust
c/o Davis County Correctional Facility – inmate #567164

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DEC 07 2023

U.S. DISTRICT COURT
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

DEC - 7 2023

GARY P. SERDAR
CLERK OF COURT

BY

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

	/	WRIT OF MANDAMUS:
"PAUL KENNETH CROMAR"	/	TO PRODUCE GRAND JURY RECORDS
Defendant in error	/	AS PER DEFENDANT'S
	/	EMERGENCY MOTION TO COMPEL,
v.	/	OR ALTERNATIVELY,
	/	WRIT PROHIBITING PROSECUTION
UNITED STATES OF AMERICA	/	
Plaintiff in error	/	case # 2:23-cr-00159-HCN-DBP
	/	Judge Howard C. Neilson, Jr.

INTRODUCTION

Comes now, Paul-Kenneth: of the House of Cromar, a natural living man on the land, competent and of age (never a corporate "person", nor minor), sui juris, a sovereign son and heir of God, defendant in error, who does hereby respectfully move this court to COMPEL the Prosecution via a WRIT OF MANDAMUS for the UNITED STATES OF AMERICA to immediately provide ALL Grand Jury records, as previously requested in the Defendant's EMERGENCY MOTION TO COMPEL DISCLOSABLE AND DISCOVERABLE EXCULPATORY EVIDENCE (see Docket entry #26 of October 3,

2023), in order for the Defendant to “inspect and copy” lawfully required documents, recordings, transcriptions, records, etc., necessary to establish and ascertain the lawfulness of the “April 19, 2023” alleged “legally” convened Grand Jury indictment of the Defendant, connected to this instant case; or alternatively, provide a WRIT OF PROHIBITION OF PROSECUTION.

COURT REQUESTED MOTION PRESENTED IN FORM OF A WRIT OF MANDAMUS

On November 15, 2023, the Defendant suffered another surprise Status Hearing wherein again without notice – the Defendant in error was simply awakened early, chained, handcuffed and transported to court house for virtually the entire day. At the hearing, the Defendant asked the court about the production of the Grand Jury Indictment related records being immediately made available for inspection by the Defendant *in-error* Cromar, with the court requesting a written motion to be made. (See transcript – which as of this filing is not yet available.) Herein, is that that suggested motion, provided in the form of this proposed WRIT OF MANDAMUS.

Based on the record to date, it appears that the UNITED STATES OF AMERICA counsel is ever claiming that the delays in providing service of Discovery to Defendant (which was due on September 19, 2023, (forty-seven days late, finally received in full on November 6, 2023, at 1:18 pm), was “not the government’s fault”, while simultaneously never having provided Service to the Defendant of any of the prosecutor’s court filings, as required by due process of law.

THWARTING “SPEEDY TRIAL” & GRAND JURY PRODUCTION THROUGH DELAYS?

Additionally, the Prosecution mischaracterized in his “Stipulated MOTION to Continue Trial Date” by USA (see November 17, 2023 docket entry #64), that the Defense initiated pursuit of the delay, when it was in fact the government’s counsel who stood in open court and said on the record, that the government “needs at least an additional 60 days” to prepare their “complex case”. (See transcript of November 15 hearing for exact verbiage – not yet available.) Based on the prosecution’s own comments counsel may yet again ask for more time to prepare the “complicated” case – which, again, is at the expense of the Defendant *in error* paul cromar – who

continues to suffer in jail now for 97 days – thanks to lengthy delays directly attributable to the counsel for the UNITED STATES OF AMERICA. Certainly the delays were not caused nor desired, by the Defendant's waiting in jail for the Discovery, though it is the Defendant whose freedom is denied and who pays for this avoidable error, and whose "speedy trial" is further compromised.

WILL A LAWFUL GRAND JURY INDICTMENT BE PROVEN WITH RECORDS?

Based on the above pattern of delay, and apparent lack of accountability and candor (see Exhibit "A" – NOTICE OF COMMUNICATION WITH PROSECUTOR dated November 21, 2023, sent to UNITED STATES OF AMERICA counsel Mark E. Woolf), the Defendant does not yet trust 100% that the counsel for the USA can produce proof that a fully lawful April 19, 2023 Grand Jury Indictment was executed, which the law requires, and the Defendant has the right to "inspect and copy" all related "tangible (original) document" records for any effort to overturn an errant and voidable Indictment.

For example, as noted in the Defendant's October 3, 2023 filing of Docket entry #26 - EMERGENCY MOTION TO COMPEL, states that, "...If the Grand Jury was not drawn in the proper vicinage or venue, the INDICMENT fails, and the Defendant in error must be released forthwith." (see page 5) If, indeed, a lawful Grand Jury was convened, the UNITED STATES OF AMERICA counsel must not only have the required documents, but must also produce them to prove it. If the required documents are not produced, this prosecution of this case must be stopped with the court's WRIT OF PROHIBITION OF PROSECUTION, and the Defendant *in error*, Paul-Kenneth: Cromar, must be immediately released from custody.

The Grand Jury records required by the October 3, 2023, EMERGENCY MOTION TO COMPEL (*ibid*), now two months old (62 days), also highlights the following:

"...The Government prosecutor(s) *in-error* have a duty to provide exculpatory information [that shows] or tends to show the Defendant is innocent or not guilty of the charges against him and includes the duty to disclose any evidence that would exonerate or excuse the Defendant *in-error* of all charges."

DISCLOSABLE AND DISCOVERABLE EXCULPATORY EVIDENCE

All discoverable Grand Jury records as outlined in the EMERGENCY MOTION TO COMPEL DISCLOSABLE AND DISCOVERABLE EXCULPATORY EVIDENCE include, but are not limited to (please carefully read docket entry #26 for the details of ALL records required for complete compliance), the following:

"1. Certified copy of the original complaint as presented to the Grand Jury in the instant action. (FRCrP Rule 3)", and,

"4. Copy of the Complaint by a **fact competent** (natural person as distinguished from an artificial person) **injured party "victim" sworn to and subscribed by an officer with authority to take the oath** as required by Federal Rule of Procedure Rule 3, Rule 4, Rule 4.1.", and,

"12. Copy of the testimony recorded verbatim by an electronic recording device, or a court reporter, or in writing: as required under FRCrP sec 4.1(b), et seq.", and,

"18. Certified copy of the Indictment as filed in open court **with the typed name and wet ink signature of the grand jury foreperson.** (FRCrP Rule 6))"

"19. Provide a witness list of all witness(s) (names, and exact address redacted) called and sworn to testify before the Grand Jury.

"20. Provide the complete transcript of the Grand Jury Hearing.

"21. Provide a copy of the date the Grand Jury was sworn in.

"22. Provide a copy of the (*names [redacted], addresses [redacted]*), and **county and state [unredacted]** for the empaneled Grand Jury.

"23. Copy of the Audio recording as required by FRCrP Rule 6(e).

"24. Disclose all under-cover informants(s) that have been used or involved with this case."

Without all the above records being provided immediately under court order or WRIT OF MANDAMUS, the Defendant *in error* cannot determine whether or not a lawful Grand Jury Indictment was convened; and whether or not this instant case needs to be Dismissed for failure

by prosecution to adhere to due process of law, for false arrest and incarceration, and for an abuse of judicial process, selective prosecution, and/or malicious prosecution, which may be actionable against those acting outside the law, their sworn oath of office, and any anticipated “judicial immunity”. (see USC Title 18 section 241 – Conspiracy to Deny Rights, and USC Title 18 section 242 – Deprivation of Rights under Color of Law, which includes provisions for penalties that specifically identify potential criminal action by “police officers, prison guards and other law enforcement officials, as well as judges.”)

Also, from MOTION TO COMPEL (ibid, at page 15):

The necessity for a federal employee to have delegated authority to act is not only shown in the above cases, it also manifests itself in cases under the Federal Torts Claims Act (herein “FTCA”), 28 U.S.C. sec 1346(b). Under this law, the United States is liable for torts committed by its employees if so committed within the scope of their employment. If the act in question was not committed in the scope of employment, the employee is liable and the United States is not.”

In the Defendant’s OBJECTION TO SECOND NOTICE OF COMPLIANCE AND REQUEST FOR RECIPROCAL DISCOVERY, item #18 highlights United States Attorney responsibilities as follows:

“The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is **not that it shall win a case, but that justice shall be done.** As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor – indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.”

Berger v. United States, 295 U.S. 78, 88 (1935) (emphasis added)

“A judgment obtained without jurisdiction over the defendant is void.”

(Overyb v Overy, 457 S.W. 2nd 851 (Tenn. 1970)

The Defendant trusts that counsel for the UNITED STATES OF AMERICA, in the interest of justice, is supportive of the above, as well as the Department of Justice's publication on the Grand Jury, the Introduction from which instructs:

"The prosecutor must... [protect] the citizenry from unfounded criminal charges. The prosecutor's responsibility is to advise the grand jury on the law and o present evidence for its consideration. In discharging these responsibilities, the prosecutor must be scrupulously fair to all witnesses and must do nothing to inflame or otherwise improperly influence the grand jurors." (DOJ - Grand Jury Indictments, at 9-11-010 – "Introduction" – emphasis added)

Based on the oft dramatic, "inflammatory" language contained in the Sealed Indictment of April 19, 2023, the Defendant's right to review lawfully requested Grand Jury records will help to instill confidence that the prosecutor's function to "ensure that justice is done and that guilt shall not escape **nor** unsubstantiated **innocence suffer**," (ibid, emphasis added) may have indeed been legitimately pursued by the Grand Jury successfully in the interest of justice.

In the meanwhile, until such time as the UNITED STATES OF AMERICA prosecution counsel can prove lawful legitimacy the "indictment" against the Defendant *in error*, Paul-Kenneth: Cromar, he again declares his 100% "INNOCENCE", which innocence the court MUST also presume, without prejudice, until otherwise proven guilty beyond a reasonable doubt through a lawful 12-man trial by a jury of the Defendant's peers in a lawful venue and vicinage. Until the Grand Jury records are provided and a lawfully resulting trial by jury of peers can prove otherwise, it is reasonable that the FBI's 11-man SWAT ("JTTF" – Joint Terrorism Task Force) remains considered by Defendant as a "kidnapping" and his being held as an IRS political hostage, which may indeed also fall under actionable criminal violations including but not limited by those described in USC Title 18 sections 241 and 242 above.

PRAYER FOR RELIEF – VIA WRIT OF MANDAMUS

Therefore, – in the interest of Justice, and for good cause showing, the Defendant respectfully prays for relief by this court to provide a WRIT OF MANDAMUS requiring the production of ALL GRAND JURY RECORDS including but not limited to those identified in the Defendant's EMERGENCY MOTION TO COMPEL (October 3, 2023 – docket entry #26) detailed above, within five days, or alternatively provide a WRIT PROHIBITING PROSECUTION. (Note: Again to be clear, names & addresses may be redacted, but jurors' Counties must be identified.)

Respectfully presented, and in Honor, on this 4th day of December, 2023.

by: Paul Kenneth Cromar

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STATE OF UTAH – DAVIS COUNTY

NOTARY JURAT

not available

The foregoing instrument was acknowledged before me this _____ day of

November, in the year of our Lord, and domini 2023 by _____.

Notary name: _____ My commission expires _____.

Notary signature: _____.

Certificate of Service

I hereby certify that on the 4th day of December, 2023, I personally placed into the US Mail with the assistance of a jail Deputy, a true and correct copy of this WRIT OF MANDAMUS: PRODUCE GRAND JURY RECORDS AS PER DEFENDANT'S EMERGENCY MOTION TO COMPEL, OR ALTERNATIVELY PROHIBIT PROSECUTION FROM PROCEEDING, to:

Trina A. Higgins, United States Attorney (#7349)

Mark E. Woolf, Assistant United States Attorney (WA #39399)

Peter J. Anthony, Special Assistant United States Attorney (NY #4940912)

Meredith M. Havekost, Special Assistant United States Attorney (IL #633789)

Office of the United States Attorney

111 South Main Street, Suite 1800

Salt Lake City, Utah 84111-02176

Respectfully Acknowledged,

by: Paul Kenneth Cramer

Print name: [©] Paul - Kenneth: Cramer TM